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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/840,283	04/23/2001	Nicholas Stiliadis	NS2	3319

21710 7590 02/08/2007  
BROWN, RUDNICK, BERLACK & ISRAELS, LLP.  
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BOSTON, MA 02111

EXAMINER
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SALTARELLI, DOMINIC D

ART UNIT	PAPER NUMBER
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2623

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/08/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/840,283	STILIADIS, NICHOLAS	
	<b>Examiner</b>	<b>Art Unit</b>	
	Dominic D. Saltarelli	2623	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 20 November 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments with respect to claims 1-23 have been considered but are moot in view of the new grounds of rejection.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 2, 5-9, 11-13, 15-20, and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hunter (US 2002/0162113 A1, of record) in view of Applicant's own originally filed specification and Bernard et al. (5,918,213, of record) [Bernard].

Regarding claims 1, 11, 12, and 23, Hunter discloses a method of marketing and distributing multimedia, the method comprising:

receiving multimedia material from an owner of said multimedia material (an inherent step, as the movies being offered for sale must have first been acquired from the owners of the respective material, paragraph 0060);

storing multimedia material on a computer readable storage medium in digital format (the stored movies which a customer reviews and selects for purchase, paragraph 0060);

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providing a server system accessible over a communication network, said owner being linked with the server system (as it is their product which is being sold, paragraph 0063), said server system accessing said digital format from said computer readable storage medium for transfer of said digital format over said communication network (paragraphs 0062-0063);

downloading, upon request of purchasers, over said communication network, said digital format of said multimedia material from said server system (paragraph 0062);

wherein said purchaser is an exhibitor exhibiting said multimedia material in a public theater to a number of individuals in exchange for a paid admission (paragraph 0059); and

following up to determine information necessary to calculate an amount owed by said purchaser for said multimedia material and charging the account of said exhibitor with the amount owned (paragraph 0063).

Hunter fails to disclose receiving associated advertising material from a producer or owner of said multimedia, providing samples of said digital format from said server system over said communication network to potential purchasers, providing in digital format said advertising material to said purchasers from said server system over said communication network allowing purchasers to locally market and sell said multimedia material.

Applicant's own originally filed specification states that it is conventional for owners of multimedia material to provide advertising material to purchasers to

locally market and sell said multimedia material (page 12, lines 5-17). Because Hunter also teaches digitally transmitting advertising material as well as multimedia material to purchasers of multimedia material (paragraph 0070), a practitioner of ordinary skill in the art would be motivated to receive advertising material from said owners and send the advertising material in digital format to purchasers to allow the purchasers to locally market and sell said multimedia material, as the cost reducing benefits of all digital domain transmissions taught by Hunter (paragraph 0008-0009) would be then equally applied to both the advertising material and multimedia material.

It would have been obvious at the time to a person of ordinary skill in the art to modify the method disclosed by Hunter to include receiving associated advertising material from an owner of said multimedia and providing in digital format said advertising material to said purchasers from said server system over said communication network allowing purchasers to locally market and sell said multimedia material, for the benefit of reducing the costs normally associated with the distribution and promotion of said multimedia material.

Hunter still fails to disclose providing samples of said digital format from said server system over said communication network to potential purchasers.

In an analogous art, Bernard teaches providing samples of multimedia content to potential purchasers (col. 3, lines 19-41) to provide assistance in choosing which material to purchase.

It would have been obvious at the time to a person of ordinary skill in the art to modify the method disclosed by Hunter to include providing samples of multimedia content to potential purchasers, as taught by Bernard, for the benefit of providing helpful assistance to the purchaser in choosing which material to purchase.

Regarding claims 2 and 13, Hunter and Bernard disclose the method of claims 1 and 12, including receiving multimedia material by downloading via said communication network (Hunter, paragraphs 0062-0063).

Regarding claim 5, Hunter and Bernard disclose the method of claim 1, including providing a server system accessible over a public communication system (Hunter teaches accessing the server over the Internet, paragraph 0063).

Regarding claim 6, Hunter and Bernard disclose the method of claim 1, including downloading digital material from said server system for digital display to an audience (Hunter, paragraph 0059).

Regarding claims 7 and 17, Hunter and Bernard disclose the method of claims 1 and 12, including providing downloadable advertising materials on said server system (Hunter, paragraph 0070).

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Regarding claims 8 and 9, Hunter and Bernard disclose the method of claim 1, including collecting sales information for exhibitor recipients of said multimedia material and providing sales and marketing data based upon information from said users of said server system (Hunter teaches a billing system that tracks orders from purchasers, paragraph 0063).

Regarding claims 15 and 16, Hunter and Bernard disclose the method of claim 12, but fails to disclose said follow up is implemented by either sending an e-mail to said exhibitor or by consulting publicly reported data respecting said exhibitor.

In the previous office action mailed on August 23, 2006, the examiner relied upon official notice to teach these claimed limitations. In the subsequent response mailed to the office on November 20, 2006, the applicant did not choose to traverse said instances of official notice, and thus are take to be an admission of the facts herein, as per MPEP 2144.03.

Therefore, it would have been obvious at the time to a person of ordinary skill in the art to modify the method disclosed by Hunter and Bernard to include said follow up is implemented by either sending an e-mail to said exhibitor or by consulting publicly reported data respecting said exhibitor.

Regarding claim 18, Hunter and Bernard disclose the method of claim 17, including querying said exhibitor to stimulate the sending of data from said

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exhibitor and recording said data into a database (Hunter teaches a user interface through which customers make selections and schedule purchases, paragraph 0060).

Regarding claims 19 and 20, Hunter and Bernard disclose the method of claim 18, including providing marketing data recorded in said database to customers in response to a query from an exhibitor (who is an actual user of said server system, see Hunter, paragraph 0060, where customers have tool that allows them to see listings of all movies available).

4. Claims 3, 4, 10, and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hunter, Applicant's own originally filed specification, and Bernard, as applied to claims 1 and 12 above, and further in view of Siefert (5,564,043).

Regarding claims 3, 4, 10, and 14 Hunter and Bernard disclose the method of claims 1 and 12, but fail to disclose the receiving multimedia material includes receiving non-digital media including celluloid media and printed media.

In an analogous art, Siefert discloses receiving and digitizing celluloid media and printed media in order to provide it over a communications network (col. 5, lines 14-25).

It would have been obvious at the time to a person of ordinary skill in the art to modify the method disclosed by Hunter and Bernard to include receiving non-digital media including celluloid media and printed media, as taught by



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Siefert, ensuring that all material is provided in digital format for transmission, regardless of the original source media.

5. Claims 21 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hunter, Applicant's own originally filed specification, Bernard, and Sprogis (US 2004/0093608 A1, of record).

Regarding claim 21, Hunter discloses a method of marketing and distributing multimedia, the method comprising:

receiving multimedia material from an owner of said multimedia material (an inherent step, as the movies being offered for sale must have first been acquired from the owners of the respective material, paragraph 0060);

storing multimedia material on a computer readable storage medium in digital format (the stored movies which a customer reviews and selects for purchase, paragraph 0060);

providing a server system accessible over a communication network, said owner being linked with the server system (as it is their product which is being sold, paragraph 0063), said server system accessing said digital format from said computer readable storage medium for transfer of said digital format over said communication network (paragraphs 0062-0063);

downloading, upon request of purchasers, over said communication network, said digital format of said multimedia material from said server system (paragraph 0062);

Hunter fails to disclose receiving associated advertising material from a producer or owner of said multimedia, providing samples of said digital format from said server system over said communication network to potential purchasers, querying said customer to stimulate the sending of ticket sales data from said customer and recording said data into a database.

Applicant's own originally filed specification states that it is conventional for owners of multimedia material to provide advertising material to purchasers to locally market and sell said multimedia material (page 12, lines 5-17). Because Hunter also teaches digitally transmitting advertising material as well as multimedia material to purchasers of multimedia material (paragraph 0070), a practitioner of ordinary skill in the art would be motivated to receive this advertising material from said owners as well, as the cost reducing benefits of all digital domain transmissions taught by Hunter (paragraph 0008-0009) would be then equally applied to both the advertising material and multimedia material.

It would have been obvious at the time to a person of ordinary skill in the art to modify the method disclosed by Hunter to include receiving associated advertising material from an owner of said multimedia material, for the benefit of reducing the costs normally associated with the distribution and promotion of said multimedia material.

Hunter still fails to disclose providing samples of said digital format from said server system over said communication network to potential purchasers and

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querying said customer to stimulate the sending of ticket sales data from said customer and recording said data into a database.

In an analogous art, Bernard teaches providing samples of multimedia content to potential purchasers (col. 3, lines 19-41) to provide assistance in choosing which material to purchase.

It would have been obvious at the time to a person of ordinary skill in the art to modify the method disclosed by Hunter to include providing samples of multimedia content to potential purchasers, as taught by Bernard, for the benefit of providing helpful assistance to the purchaser in choosing which material to purchase.

Hunter and Bernard fail to disclose querying said customer to stimulate the sending of ticket sales data from said customer and recording said data into a database.

In an analogous art, Sprogis discloses receiving and logging tickets sales information from theaters for billing and market research purposes (paragraph 29).

It would have been obvious at the time to a person of ordinary skill in the art to modify the method of Hunter and Bernard to include querying said customer to stimulate the sending of ticket sales data from said customer and recording said data into a database, as taught by Sprogis, for the benefit of collecting detailed information for billing and market research purposes, such as royalty payments and calculating the success of various films.

Regarding claim 22, Hunter, Bernard, and Sprogis disclose the method of claim 21, including providing marketing data recorded in said database to customers in response to a query from a customer (allowing advertisers to segment their markets, Sprogis, paragraph 0032).

### ***Conclusion***

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. The following are suggested formats for either a Certificate of Mailing or Certificate of Transmission under 37 CFR 1.8(a). The certification may be included with all correspondence concerning this application or proceeding to establish a date of mailing or transmission under 37 CFR 1.8(a). Proper use of this procedure will result in such communication being considered as timely if the established date is within the required period for reply. The Certificate should be signed by the individual actually depositing or transmitting the correspondence or by an individual who, upon information and belief, expects the correspondence to be mailed or transmitted in the normal course of business by another no later than the date indicated.

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## Certificate of Mailing

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Please refer to 37 CFR 1.6(d) and 1.8(a)(2) for filing limitations concerning facsimile transmissions and mailing, respectively.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dominic D. Saltarelli whose telephone number is (571) 272-7302. The examiner can normally be reached on Monday - Friday 9:00am - 6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller can be reached on (571) 272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

DS



**JOHN MILLER**  
**SUPERVISORY PATENT EXAMINER**  
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